

Remarks

Reconsideration of this Application is respectfully requested.

I. Status of the Claims

Upon entry of the foregoing amendment, claims 41-47 are pending in the application, with 41, 46 and 47 being the independent claims. Claims 1-40 were previously cancelled without prejudice to or disclaimer of the subject matter therein. Claim 41 is sought to be amended. New claims 46 and 47 are sought to be added. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

II. The Amendments

Claim 41 has been amended to more particularly point out what Applicants regard as the invention. Claim 41, as amended, specifies that the preparation from which the clostridial toxin is removed is a preparation of clostridial toxin fragments or conjugates thereof. Support for the amendment to claim 41 can be found, *inter alia*, at page 6 of the specification, lines 4-17 and 27-32, and page 8, lines 25-29. New claim 46 specifies that the preparation from which the clostridial toxin is removed is a preparation of clostridial toxin fragments. Support for new claim 46 can be found, *inter alia*, at page 6 of the specification, lines 4-17 and 27-32, and page 8, lines 25-29. New claim 47 specifies that the preparation from which the clostridial toxin is removed is a preparation

of clostridial LH_N. Support for new claim 47 can be found, *inter alia*, at page 3 of the specification, lines 18-22, and page 8, lines 6-23.

III. The Withdrawal of the Previous Rejections

Applicants wish to thank the Examiner for withdrawing the 35 U.S.C. §112, first paragraph rejection of claim 41 and the rejections of claim 41 and 42-45 under 35 U.S.C. §112, second paragraph, set forth in the previous Office Action.

IV. The Rejections Under 35 U.S.C. § 112, Second Paragraph

At pages 3-4 of the Office Action, the Examiner has rejected claims 41-45 under 35 U.S.C. § 112, second paragraph, as being indefinite, for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention. According to the Examiner, the metes and bounds of the structure encompassed in the limitation "derivatives" in claim 41 are indeterminate. Further, the Examiner has remarked that the second ligand of the second affinity column is not limited to one that selectively binds to the first ligand-clostridial toxin complex, and stated that claim 41 is internally inconsistent in scope. Finally, the Examiner has asserted that claims 42-45 are also rejected as being indefinite because of the indefiniteness identified in the base claim.

Applicants respectfully traverse the rejections. Solely to advance prosecution, and not in acquiescence to the Examiner's rejections, claim 41 has been amended to delete the term "derivatives" and specify that the preparation from which the clostridial toxin is removed is a preparation of clostridial toxin fragments or conjugates thereof. New claims 46 and 47 further specify that the preparation from which the clostridial toxin is removed is a preparation of clostridial toxin fragments and a preparation of

clostridial LH_N, respectively. Accordingly, the clostridial toxin fragment and/or conjugate preparation is clearly defined and identified in the claims, and claim 41, as amended, and new claims 46 and 47 fully define the scope of the claimed subject matter.

Further, claim 41, as amended, and new claims 46 and 47 specify that the second ligand that selectively binds to the first ligand-clostridial toxin complex, if present in the eluate, "binds to the first ligand part of the first ligand-clostridial toxin complex and/or to the clostridial toxin part of the first ligand-clostridial toxin complex." Accordingly, the binding profile of the second ligand recited in part (ii) of claims 41, 46 and 47 is defined solely in terms of the first ligand-clostridial toxin complex recited in part (i) of claims 41, 46 and 47. Thus, the claims are internally consistent in scope.

Applicants respectfully submit that for the reasons stated above, the rejection under 35 U.S.C. § 112, second paragraph, of claim 41, as amended, and as applied to new claims 46 and 47, is improper and should be withdrawn. Further, Applicants assert that in view of the amendment to claim 41, the 35 U.S.C. § 112, second paragraph rejection of dependent claims 42-45 is improper and should be withdrawn. Reconsideration and withdrawal of the rejections are, therefore, respectfully requested.

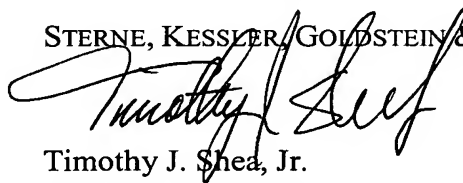
Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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